

MEDIA RELEASE

**Attention: News Director
For Immediate Release
March 6, 2007**



**U.S. DEPARTMENT OF JUSTICE
DAVID L. HUBER
UNITED STATES ATTORNEY
Western District of Kentucky**

**Contact: Sandy Focken
(502) 582-5911**

**PLEASED BE ADVISED THAT NO FURTHER STATEMENTS OR COMMENTS ARE
AVAILABLE FROM THE U.S. ATTORNEY'S OFFICE UNTIL FURTHER NOTICE.**

**TODD SMITH INDICTED FOR MAIL FRAUD, WIRE FRAUD,
AND MONEY LAUNDERING**

– Commonwealth Attorney David Stengel is praised for his office's investigation

David L. Huber, United States Attorney for the Western District of Kentucky, announced today that a federal Grand Jury in Louisville **returned an Indictment** charging **TODD EDWARD SMITH, a.k.a. TODD KELLY**, age 36, of 1308 Blackberry Drive, in Jefferson County, with mail fraud, wire fraud and money laundering

The Indictment alleges that on between January 1, 2001, and April 30, 2006, **Smith** used the United States mail and interstate wires, including phone lines, television and radio broadcasts, and the internet, to perpetrate a scheme to defraud donors of thousands of dollars. The Indictment alleges that in 2001, **Smith** fraudulently announced to family, friends and coworkers that he had been diagnosed with Amyotrophic Lateral Sclerosis (ALS), also known as Lou Gehrig's disease, and that doctors had told him he had three to five years to live.

This Indictment is the result of the joint investigative efforts of the Jefferson County Commonwealth Attorney's Office, Kentucky State Police, and the Federal Bureau of Investigation.

This case is a model for state and local cooperation with the federal agencies. I commend David Stengel for his office's continued good work with us on a matter important to the community.

According to the February 9, 2007, Federal Bureau of Investigation affidavit of Special Agent Lawrence Elbert in support of a criminal complaint filed against Todd Smith and Sybil Smith, in 2002, **Smith** announced that he was establishing the Todd Kelly Foundation to raise money for ALS research. On its website, the Todd Kelly Foundation stated: "by making a tax deductible donation to the Todd Kelly Foundation-ALS Research, you are directly funding the ground-breaking research that will one day provide treatments and a cure for this devastating disease," and "OVER 80 CENTS OF EVERY DOLLAR YOU GIVE GOES STRAIGHT TO SCIENTIFIC RESEARCH. We promise that your donation will be used wisely and effectively."

Over the next several years, **Smith** held various fund raising events to generate funds for the Foundation. **Smith** solicited and received thousands of dollars in donations from hundreds of donors by interstate wire and United States mail. These fund raisers were often advertised on both television and radio broadcasts, in the internet, and through email and regular mail. Throughout the various fund-raising events, **Smith** continued to assert that he suffered from ALS and frequently sent emails and letters updating potential donors on his medical condition.

In 2004, **Smith** alleged that in addition to ALS, he also suffered from bone cancer, and that he might lose both of his legs. **Smith** also claimed that he was in thousands of dollars of debt resulting from ALS and cancer related medical expenses that were not covered by insurance. In addition to the fund raisers held on behalf of the Todd Kelly Foundation, fund raisers were also held to benefit **Smith** directly, to offset his uncovered medical expenses. These events raised thousands of dollars in additional donations, paid directly to **Smith**.

The Todd Kelly Foundation's Fifth Third Bank account records reflect that contrary to the

representations on its website, no Foundation funds were contributed to ALS research. On the other hand, Todd Kelly Foundation bank records reflect, among other things, that **Smith** used Todd Kelly Foundation funds to pay for thousands of dollars of his own personal expenses, including car payments, car insurance payments, cable and telephone bills, meals at restaurants, limousines, vacations, and alcohol.

In the event of a conviction, the maximum potential penalties are 80 years imprisonment, a \$1,000,000 fine, and supervised release for a period of 3 years.

The case is being prosecuted by Assistant United States Attorneys David Weiser and Ann Claire Phillips, and it was investigated by the Jefferson County Commonwealth Attorney's Office, the Kentucky State Police, and the Federal Bureau of Investigation.

Smith is scheduled to appear for arraignment before the United States Magistrate Judge on March 20, 2007, at 9:30 a.m., in Louisville, Kentucky.

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The indictment of a person by a Grand Jury is an accusation only and that person is presumed innocent until and unless proven guilty.

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